

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 602

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO TAXATION; EXPANDING THE AUTHORITY OF THE TAXATION AND REVENUE DEPARTMENT TO ENTER INTO A COOPERATIVE TAX CREDIT AGREEMENT WITH A TRIBE THAT HAS IMPOSED A TAX SIMILAR TO THE GROSS RECEIPTS TAX; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO CERTAIN ~~[PUEBLOS]~~ TRIBES. --

A. If on a taxable transaction taking place on ~~[pueblo]~~ tribal land a qualifying gross receipts, sales or similar tax has been levied by the ~~[pueblo]~~ tribe, the amount of the ~~[pueblo]~~ tribe's tax may be credited against ~~[any]~~ gross receipts tax due this state or its political subdivisions

underscored material = new  
[bracketed material] = del ete

1 pursuant to the Gross Receipts and Compensating Tax Act and  
2 [~~any~~] a local option gross receipts tax on the same  
3 transaction. The amount of the credit shall be equal to the  
4 lesser of seventy-five percent of the tax imposed by the  
5 [~~puerto~~] tribe on the receipts from the transaction or seventy-  
6 five percent of the revenue produced by the sum of the rate of  
7 tax imposed pursuant to the Gross Receipts and Compensating Tax  
8 Act and the total of the rates of local option gross receipts  
9 taxes imposed on the receipts from the same transaction.  
10 Notwithstanding any other provision of law to the contrary, the  
11 amount of credit taken and allowed shall be applied  
12 proportionately against the amount of the gross receipts tax  
13 and local option gross receipts taxes and against the amount of  
14 distribution of those taxes pursuant to Section 7-1-6.1 NMSA  
15 1978.

16 B. A qualifying gross receipts, sales or similar  
17 tax levied by the [~~puerto~~] tribe shall be limited to a tax  
18 that:

19 (1) is substantially similar to the gross  
20 receipts tax imposed by the Gross Receipts and Compensating Tax  
21 Act;

22 (2) does not unlawfully discriminate among  
23 persons or transactions based on membership in the [~~puerto~~]  
24 tribe;

25 (3) is levied on the taxable transaction at a

. 144941. 1

underscored material = new  
[bracketed material] = delete

1 rate not greater than the total of the gross receipts tax rate  
2 and local option gross receipts tax rates imposed by this state  
3 and its political subdivisions located within the exterior  
4 boundaries of the ~~[pueblo]~~ tribe;

5 (4) provides a credit against the ~~[pueblo]~~  
6 tribe's tax equal to the lesser of twenty-five percent of the  
7 tax imposed by the ~~[pueblo]~~ tribe on the receipts from the  
8 transactions or twenty-five percent of the tax revenue produced  
9 by the sum of the rate of tax imposed pursuant to the Gross  
10 Receipts and Compensating Tax Act and the total of the rates of  
11 the local option gross receipts taxes imposed on the receipts  
12 from the same transactions; and

13 (5) is subject to a cooperative agreement  
14 between the ~~[pueblo]~~ tribe and the secretary entered into  
15 pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the  
16 time of the taxable transaction.

17 C. For purposes of the tax credit allowed by this  
18 section: ~~["pueblo land" means all land located within the  
19 exterior boundaries of the reservation or pueblo grant and all  
20 land held by the United States in trust for one of the  
21 following:~~

22 ~~(1) the Pueblo of Isleta;~~

23 ~~(2) the Pueblo of Laguna;~~

24 ~~(3) the Pueblo of Nambe;~~

25 ~~(4) the Pueblo of Sandia; or~~

1 ~~(5) the Pueblo of Santa Ana]~~

2 (1) "pueblo" means the Pueblo of Acoma,  
3 Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque,  
4 Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santo  
5 Domingo, Taos, Tesuque, Zia or Zuni or the nineteen New Mexico  
6 pueblos acting collectively;

7 (2) "tribal land" means all land located  
8 within the exterior boundaries of a tribe's reservation or  
9 grant and all land held by the United States in trust for that  
10 tribe; and

11 (3) "tribe" means a pueblo, the Jicarilla  
12 Apache Nation or the Mescalero Apache Tribe."

13 Section 2. Section 9-11-12.1 NMSA 1978 (being Laws 1997,  
14 Chapter 64, Section 1, as amended) is amended to read:

15 "9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS ~~[WITH THE~~  
16 ~~PUEBLOS OF ISLETA, LAGUNA, NAMBE, SANDIA, SANTA ANA AND SANTA~~  
17 ~~CLARA]. --~~

18 A. The secretary may enter into cooperative  
19 agreements with the Pueblos of Acoma, Cochiti, Jemez, Isleta,  
20 Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San  
21 Ildefonso, San Juan, Santa Ana, [and] Santa Clara, Santo  
22 Domingo, Taos, Tesuque, Zia and Zuni; the Jicarilla Apache  
23 Nation; the Mescalero Apache Tribe; and with the nineteen  
24 pueblos acting collectively for the exchange of information and  
25 the reciprocal, joint or common enforcement, administration,

. 144941. 1

underscored material = new  
[bracketed material] = delete

1 collection, remittance and audit of gross receipts tax revenues  
2 of the party jurisdictions.

3 B. Money collected by the department on behalf of a  
4 [~~pueblo~~] tribe in accordance with an agreement entered into  
5 pursuant to this section is not money of this state and shall  
6 be collected and disbursed in accordance with the terms of the  
7 agreement, notwithstanding any other provision of law.

8 C. The secretary is empowered to promulgate such  
9 rules and to establish such procedures as the secretary deems  
10 appropriate for the collection and disbursement of funds due a  
11 [~~pueblo~~] tribe and for the receipt of money collected by a  
12 [~~pueblo~~] tribe for the account of this state under the terms of  
13 a cooperative agreement entered into under the authority of  
14 this section, including procedures for identification of  
15 taxpayers or transactions that are subject only to the taxing  
16 authority of the [~~pueblo~~] tribe, taxpayers or transactions that  
17 are subject only to the taxing authority of this state and  
18 taxpayers or transactions that are subject to the taxing  
19 authority of both party jurisdictions.

20 D. Nothing in an agreement entered into pursuant to  
21 this section shall be construed as authorizing this state or a  
22 [~~pueblo~~] tribe to tax persons or transactions that federal law  
23 prohibits that government from taxing or as authorizing a state  
24 or [~~pueblo~~] tribal court to assert jurisdiction over persons  
25 who are not otherwise subject to that court's jurisdiction or

. 144941. 1

underscored material = new  
[bracketed material] = delete

1 as affecting any issue of the respective civil or criminal  
2 jurisdictions of this state or the ~~[pueblo]~~ tribe. Nothing in  
3 an agreement entered into pursuant to this section shall be  
4 construed as an assertion or an admission by either this state  
5 or a ~~[pueblo]~~ tribe that the taxes of one have precedence over  
6 the taxes of the other when the person or transaction is  
7 subject to the taxing authority of both governments. An  
8 agreement entered into pursuant to this section shall be  
9 construed solely as an agreement between the two party  
10 governments and shall not alter or affect the government-to-  
11 government relations between this state and any other ~~[Indian~~  
12 ~~nation]~~ tribe ~~[or pueblo]~~.

13 E. Nothing in an agreement entered into with the  
14 Pueblo of Santa Clara ~~[pueblo]~~ pursuant to this section shall  
15 apply to a taxable transaction subject to the taxing authority  
16 of a municipality pursuant to a local option gross receipts tax  
17 act or distribution to a municipality from gross receipts taxes  
18 pursuant to Section 7-1-6.4 NMSA 1978, except that such  
19 agreement shall apply to such taxable transactions, and related  
20 distributions, reported from business locations on land of the  
21 Pueblo of Santa Clara ~~[pueblo-land]~~ annexed by a municipality  
22 after January 1, 1997.

23 F. As used in this section:

24 (1) "tribal" means of or pertaining to a  
25 tribe; and

